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SUPREME COURT, U. S.

NO. 864

IN THE SUPREME COURT OF THE UNITED STATES

October Term
1957

JOHN J. SPRIGGS, SR., PETITIONER,

v.

PIONEER CARISSA GOLD MINES, INC., A CORPORATION AND GEORGE B. COLEMER, HARRY H. HIME, SPENCER J. LEWIS, FRED H. BLUME AND HARRY S. HARNSBERGER, RESPONDENTS.

Motion for Leave to File

Petition for Rehearing
On
Petition For Writ of Certiorari
To
The United States Court of Appeals
For The Tenth Circuit

JOHN J. SPRIGGS, SR.
Petitioner and Attorney
For Petitioner, Pro Se
671 Main Street
Lander, Wyoming

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1958

No. 864

John J. Spriggs, Sr., Petitioner

v.

Pioneer Carissa Gold Mines, Inc., a Corporation, and George B. Colemere, Harry H. Hime, Spencer J. Lewis, Fred H. Blume and Harry S. Harnsberger, Respondents

MOTION FOR LEAVE TO FILE PETITION FOR REHEARING OUT OF TIME

Petitioner moves the Court for leave to file petition for rehearing out of time on the following grounds:

1. The delay in filing the petition in the above entitled case was caused by the acts of the printer and not the petitioner.

2. The delay was beyond petitioner's control in that he had an agreement with the printer to prepare and file in the Supreme Court of the United States on or before June 14, 1958.

3. Petitioner delivered the petition to the Keith Watson Printing Company, 616 Kittredge Bldg., Denver, Colorado, on June 3, 1958.

Respectfully submitted:

John J. Spriggs, Sr.

John J. Spriggs, Sr.
Baldwin Bldg.
Lander, Wyoming

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****

PETITION FOR REHEARING OF THE ORDER OF THIS COURT DATED MAY 5, 1958, DENYING PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS, TENTH CIRCUIT, AS PRAYED FOR IN THE PETITION IN THE ABOVE ENTITLED CASE.

****

TO THE HONORABLE EARL WARREN, CHIEF JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE UNITED STATES:

John J. Spriggs, Sr., petitioner herein, prays that this Court grant a Rehearing of its order of May 5, 1958 in the above-entitled case denying his petition for a Writ of Certiorari, and that the Writ of Certiorari issue to review the judgment of the United States Court of Appeals for the Tenth Circuit in the above-entitled case as prayed for in the petition filed herein on March 29, 1958.

OPINION IS REPORTED 251 F. (2d) 61

REASONS WHY THE REHEARING SHOULD BE GRANTED AND THE WRIT ISSUE.

1. IT IS NECESSARY TO SAVE AMERICA FOR AMERICANS

2. IT IS NECESSARY TO SAVE CONSTITUTIONAL GOVERNMENT FOR AMERICANS

3. IT IS NECESSARY THAT PETITIONER, A NATIVE BORN CITIZEN OF THE UNITED STATES, ONE HIGHLY PRIVILEGED BY THE AMERICAN GOVERNMENT TO SERVE AS A VOLUNTEER IN THE SPANISH-AMERICAN WAR OF '98, MIGHT NOT BE STRIPPED OF HIS AMERICAN BIRTHRIGHT AND CLASSIFIED BY THE STATE AND FEDERAL COURTS AS SOME INFERIOR CREATURE, ONE NOT WITHIN THE PALE OF PROTECTION OF THE CONSTITUTION OF THE UNITED STATES, THE CONSTITUTION OF WYOMING, THE ACTS OF CONGRESS KNOWN AS THE CIVIL RIGHTS ACTS, THE STATUTORY LAW OF WYOMING, THE UNIVERSALLY ESTABLISHED LAW OF THE UNITED STATES SUPREME COURT, THE FEDERAL COURTS, AND THE WYOMING SUPREME COURT, AS AP-

PLIED TO ANY AND ALL OTHER CITIZENS. BUT AS SUCH INFERIOR CREATURE CITIZEN, HE IS SO UNDER-PRIVILEGED AND UNPROTECTED THAT HE IS JUDICIALLY VICTIMIZED AND COMPELLED TO HAVE HIS PROPERTY TAKEN WITHOUT DUE PROCESS OF LAW, WHILE THE COURTS DENY HIM EQUAL JUSTICE UNDER THE LAW.

4. IT IS NECESSARY THAT PETITIONER, HAVING ALLEGED A TAKING OF HIS PROPERTY WITHOUT DUE PROCESS OF LAW, AND A DENIAL OF EQUAL PROTECTION OF LAW, AND HAVING ALLEGED A DENIAL OF THE RIGHTS, PRIVILEGES AND IMMUNITIES IN VIOLATION OF THE CIVIL RIGHTS ACTS OF CONGRESS, AND HAVING ALLEGED FACTS TO SUBSTANTIATE EVERY SUCH ALLEGATION, CONSISTING OF JUDICIAL RECORDS NOT OPEN TO QUESTION OR DISPUTE, AND HAVING SET UP THE MOST EXCESSIVE ABUSE AND MISUSE OF STATE JUDICIAL POWER, ACCOMPLISHED BY THE MOST INEXCUSABLE RESORT TO JUDICIAL BIAS, PREJUDICE, HATRED, ILL WILL, AND MALICE, THE EQUAL OF WHICH IS NOT TO BE FOUND IN ALL AMERICAN JUDICIAL HISTORY, IT IS NECESSARY THAT THE REHEARING BE GRANTED AND THE WRIT ISSUED THAT PETITIONER MAY BE GIVEN A DAY IN COURT WITH HIS RIGHT TO PRODUCE EVIDENCE TO ESTABLISH THE DEPRIVATION OF HIS FEDERAL CIVIL RIGHTS.

5. IT IS NECESSARY THAT THIS COURT AND EACH INDIVIDUAL MEMBER KEEP FAITH WITH THE AMERICAN PEOPLE UNDER THEIR OATH BOUND DUTY TO UPHOLD, SUPPORT AND DEFEND THE CONSTITUTION AND LAWS OF THE UNITED STATES AND TO ADMINISTER EQUAL JUSTICE UNDER LAW. AND THAT ON A RECONSIDERATION, THEY MAY BE CAUSED TO SEE

THE UNCONSTITUTIONAL JUDICIAL OPPRESSION TO WHICH PETITIONER HAS BEEN AND YET IS BEING SUBJECTED TO BY DEFENDANTS HEREIN.

QUESTION PRESENTED.

1. Did the Complaint state a claim on which relief could be granted? (See Complaint, R 1)

2. Did the Complaint allege a taking of property without due process of law, and a denial of equal protection of law, constituting a deprivation of federal rights under 42 USCA 1983-5-6-8?

3. There was nothing in the way of facts before the court except the Complaint. The Court must apply the law to the facts alleged. Every material allegation of the Complaint, and every reasonable inference therefrom, when viewed in the light most favorable to Petitioner is taken as true, admitted and confessed. (See cases cited par V pg 38 of Application for Certiorari) Petitioner cannot be denied a day in court to produce evidence to support his Complaint.

4. The Complaint alleged and it is admitted: Petitioner was the holder of the legal record title, as against all defendants, first by a deed to a 11/24ths interest from Tibbals, dated Aug. 22, delivered Mch. 3, 1933. This represented a contingent interest he had in case 4182 since Mch. 17, 1928, filing and service of case 4182; Second he held a deed from Executors of Spry estate, and Federal Gold Mining Company, dated Feb. 29, 1950, to any and all right, and rights of action they might have in and to the properties. (See par 2, Complaint, pg 3 R) They were prior owners,

and defendants in case 4182.

5. Neither alleged receiver, Graham or Hime, nor Pioneer Carissa Gold Mines, or any defendant had any record title, or legal claim to the properties.

6. Graham, as alleged receiver of Midwest Mines Corp., but in fact a wilful, malicious trespasser, with no possible legal claim, right, or title, or right of possession, entered into possession of the properties Mch. 3, 1933. He held possession 24½ years, leased them by void lease to Pioneer Carissa Gold Mines, which depleted them by taking out over $70,000 in mineral ores, and in Nov. 1956, defendant Judge Lewis, in case 4561 ordered alleged receiver Hime to give Pioneer Carissa Gold Mines a court deed to the properties, which was done. Out of the proceeds, alleged receiver Hime, paid himself, his attorney, the prior receiver's widow, defendant Harnsberger, illegal and basely claims.

7. Neither petitioner, nor Tibbals, record holders of title to the properties were made parties to case 4561. They were not given notice, there were no pleadings asking sale, no pleading setting up title in Hime, or necessity for sale, no pleading setting up a judgment establishing a debt in favor of Hime or any defendant. The sale was made on a report of alleged receiver Hime (See Complaint par 36 to 41, pg 17 to 22 R). Notice must be legal notice, pleadings, not merely to know. Barnett v Oakley (Wyo) 278 Pac 540.

8. It should not be asked of Petitioner, now a litigant in the Supreme Court of the United States, that he argue to this court the voidness of a judgment or order of a court that takes the property of man without making him a party,

giving him notice, when the Complaint herein sets up Petitioner's title, and lack of notice. (See Complaint pg 17-18 to end) It is the established law of this court and of federal courts, as decreed for other citizens under like circumstances, that an abuse and misuse of judicial power, whereby a citizen is denied the right to own, possess and enjoy his property, violates the 5th and 14th Amendment to the Constitution of the United States. Further that this right enures to every person as a member of the American society without looking to the constitution. We called the Court's attention to Mark, 3-27 as the Divine condemnation of the taking of one man's property by another, which is in harmony with the Ten Commandments; -Thou shalt not steal. Thou shalt not covet another's property. There is no difference to the victim, and he suffers the same injury when his property is taken in trespass, by force and arms, than when taken in criminal thievery. The loss is the same. We seem to have reached the sad plight where religion and the Courts do not mix. Had the Court of Appeals, or this Court itself taken time out to read Mark 3, the Divine Conception of the application of right and justice to this case might have been grasped and applied, and the pointed-out duty of the court as a governmental agency followed. Old Abe Lincoln read his Bible. He read this chapter. He grasped the Divine Conception as a guide for his presidential duties and course of action. As the Heavenly Master warned that a house divided against itself could not stand, so Old Abe warned the American people that a house divided against itself could not stand, and American government could not stand divided against itself, divided half free and half slave. This Court may well follow President Abe and conclude that the Constitution of the United States cannot

stand divided against itself. It cannot endure as a constitutional government with the 5th and 14th Amendments declared a protecting Bill of Rights to the specially selected few which this court in its so-called discretionary power, wills to enforce, while to Petitioner, an unfavored litigant, this court withholds the same equal protection.

Screws v U S 325 U S 91, 89 Led 1495
U S v Classica 313 U S 99, 85 Led 1368
Hodges v U S 203 U S 1
Culp v U S 231 Fed 2nd 93
U S v Jackson 235 Fed 2nd 925
Mark 3-27

The Court of Appeals denied Petitioner a day in Court to produce evidence to show the taking of his property without due process of law and a denial of equal justice under law. It excluded evidence of facts and records which would show conclusively void judgments which it wrongfully and without legal basis and contrary to facts and law adjudged to be valid and based on competent jurisdiction, all contrary to the allegations of the Complaint and admitted by defendants.

The duty of the Court of Appeals to grant a day in court on the evidence and facts is stated by this court, as the law for other citizens and the duty of the court in such like conditions to hear the evidence, is aptly stated in Oyma v California 332 U S 663:

"In approaching cases in which federal constitutional rights are asserted, it is incumbent on us to inquire-not merely whether those rights have been denied in express terms, but also whether they have been denied in substance and effect. WE MUST REVIEW INDEPENDENTLY

BOTH THE LEGAL ISSUES AND THOSE FACTUAL MATTERS WITH WHICH THEY ARE COMMINGLED".

The same declaration to a day in court is stated by the Supreme Court of Colorado, the State wherein the Court of Appeals sat in denying Petitioner a day in court, saying:

"When a citizen resorts to our courts having jurisdiction, and has alleged his right to property, he owes deference to no power that would seek to prevent him from having the ear of the court in praying for enforcements of his right."

Colorado Racing Commission v Brush Racing Assn 316 Pac 2nd 58

"Constitutional Rights Not Dependent on the Discretion of the Chancellor-

"Constitutional rights and obligations are no more dependent upon the discretion of the chancellor than they are on the discretion of the legislature.

"Rights, says the Supreme Court of the United States, under our system of law and procedure do not rest in the discretionary authority of any officer, judicial or otherwise. Re Parker 131 U S 221-33 Led 123"

First Union Trust & Saving Bank v Bernardin 69 Fed 2nd 419, further citing Wood v Guaranty Trust Co 128 U S 416, 32 Led 472

Equal protection of law; "Equal protection of law is something more than an abstract right. It is a command which the State must respect, the benefits of which

every person may demand".

State v Ellis (Ore) 184 Pac 2nd 864, citing Hill v State of Texas, 316 U S 400, 86 Led 1559.

Again in Barbier v Connolly 113 U S 27-28 Led 923, this court sums up rights under the 14 Amend this way; There shall be no arbitrary deprivation of life, liberty or property. Equal protection must be given to all under like circumstances; All persons are entitled to acquire and enjoy property; All shall have equal access to the courts for redress of wrongs; that no impediemt should be laid on one that is not laid on all others under like circumstances.

Kurtz v Pittsburgh 31 Atl 2nd 257-145 ALR 1139; "Fidelity to the fundamental law is the only guarantee of the permance of constitutional government. Since the constitution is intended for observance by the judiciary, as well as all other departments of governments, AND SINCE JUDGES ARE SWORN TO SUPPORT ITS PROVISIONS THE COURTS ARE NOT AT LIBERTY TO OVERLOOK OR DISREGARD ITS COMMANDS."

"The duty of the court is to maintain the constitution as the fundamental law of the land. The duty IS IMPERATIVE AND UNCEASING. "Quoting Marbury v Madison 1 Cranch 137-2 Led 60 Marshall, J- "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of law whenever he receives an injury. ONE OF THE FIRST DUTIES OF GOVERNMENT IS TO AFFORD THAT PROTECTION. The government of the United States has been emphatically termed a government of LAW AND NOT OF MEN. IT WILL CERTAINLY CEASE TO DESERVE

THIS HIGH APPELLATION OF THE LAW FURNISH NO REMEDY FOR THE VIOLATION OF VESTED RIGHTS."

QUESTION PRESENTED: Did the Complaint allege a taking of property without due process of law, and a denial of equal justice under law, with supporting facts alleged-as the Complaint herein does, did the Court of Appeals have power, and does this Court have power, discretionary or otherwise, to deny Petitioner a day in court to establish his Complaint by evidence?

Further, does the so-called discretionary power, to grant or deny Certiorari set up by Rule of this Court conflict with the Constitution of the United States?

It follows, that since Petitioner has set up a deprivation of his federal constitutional rights-a taking of his property without due process of law, and denial of equal justice under law, and by Petitioner for Certiorari sets up a denial of redress by the Court of Appeals, and asks this Court to perform its oath-bound duty to uphold, support and defend the constitution and laws of the United States, Petitioner is entitled to a day in Court, and in this court to secure the protection granted and commanded by the constitution and laws of Congress. The constitution cannot stand, and constitutional government endure, with the constitution divided against itself. This Supreme Court cannot speak in two constitutional languages. It cannot under pretense of judicial discretion, arbitrary and unreasonable tho it may be, speak in tones of relief and say to one citizen whose life, liberty or property is being taken without due process of law, and who is being denied equal justice under law: "This court will grant you the protection the constitution guarantees,

and decree you the relief the law provides" and in the next breath say to another citizen whose life, liberty and property is being taken without due process, and he is being denied equal justice under law: "This Court is too busy, it will not hear you or grant you relief under the constitution on an equality with other citizens." Such exercise of judicial power under guise of "discretion " would desecrate and wipe out the constitution itself, and constitutional government would vanish as a myth.

A judicial discretion that sees not the wrong inflicted, that sees not the constitutional inhibition against that wrong, that sees not the Constitutional Bill of Rights guaranteeing protection from such wrong, and that sees not the equal law for redress of that wrong, but rests on the unAmerican and unconstitutional ground that an oppressed litigant, here a white one, may be denied relief because the Court is too busy, there are too many undisposed cases on the docket, a large portion of which are those calling for protection of colored people being denied the right to vote, or swim in the Municipal pool, or attend an integrated school cannot stand. That would be law by will of the judge instead of law fixed by the constitution.

A judicial Certiorari discretion is too indefinite and not safe-guarded by legal definition. Its exercise is subject to temptation and abuse thru all the weaknesses and frailties of human nature. It might be swayed by a judge's inherent sympathy for a brother judge and an uncontrolled desire to cloth him with judicial immunity and shield him from suit for abuse and misuse of his judicial power. The piling up of too many cases is the legislative problem of the people, to

be corrected by reorganization of the Supreme Court System.

The people when shown the necessity will provide for sny emergency necessary to preserve constitutional govern - ment, by providing more Supreme judges, reorganizing the Supreme Court System by creating Supreme Court Districts with sufficient Judges geographically arranged, fashioned after the present District Court, and Courts of Appeal Districts, or whatever plan the pople may adopt.

> State v Hogan, 303 Pac 2nd 293; "Judicial Discretion- What is it? Altho it cannot be defined by hard and fast rule, it means a sound discretion which is not arbitrarily exercised, but with regard to what is right and equitable under the circumstances and law and which is directed by the reasoning conscience of the judge to a just result."

It follows, that if the Complaint alleges a taking of property without due process of law, and a denial of equal justice under law and the Court of Appeals has denied Petitioner redress for deprivation of those federal rights, and Petitioner has asked Certiorari by this court to review the judgment of the Court of Appeals in accordance with Sec. 1254, Title 28 USCA, which provided that judgments of the Courts of Appeal MAY be reviewed by the Supreme Court by Certiorari, it is both the spirit and letter of that law that MAY means SHALL when a Complaint stating a claim for relief has been presented. The Complaint does state a perfect claim, with all material allegations and all reasonable inference therefrom, viewed in the light most favorable to Complainant admitted and confessed. Every member of this

Court is oath-bound by three oaths, First, to uphold, support and defend the constitution and laws of the United States; Second, Not to decide thru bias or other unjudicial motive; and Lastly, the oath required of the last federal judge, not to judicially legislate, which binds the judge not to ignore, twist or modify 42 USCA 1983-5-6-8 but sustain the relief therein provided for deprivation of federal civil rights.

The duty of this court under the record herein presented to grant the rehearing, and issue Certiorari as prayed for is imperative and judicially mandatory.

QUESTION PRESENTED: Did the Complaint allege title in Petitioner, legally deraigned? And was this title subject to question or attack in the subsequent collateral court in cases 4561, or 50 Wyo 524, or by judgment of the Court of Appeals below?

The Complaint, par 4-to 19, pgs 4 to 12, sets up such perfect title legally deraigned and not subject to attack in the subsequent collateral cases 4561, or 50 Wyo 524, or the Court of Appeals, or this court itself. The Complaint sets up that March 17, 1928 Tibbals filed and served case 4182 in Fremont County Wyoming District Court to foreclose his First Trust on the properties. Such trust is equitable ownership, superior to a First Mortgage. In Oct 1929 the Wyoming Supreme Court, 40 Wyo 524, established the First Trust at $17,500. and interest at 7% from April 29, 1930, thru judgment on the mandate in case 4182. Petitioner had a contingent interest in the suit and properties from March 17, 1928, which was reduced to deed, dated Aug 22, 1932, delivered

March 3, 1933 of an 11/24th interest. He later held a deed, dated Feb. 20, 1950, from the Spry Executors, and Federal Gold Mining Company, defendants in case 4182, of any and all rights, claim or title, and all rights of action they might have in and to the same properties. (See R par 1, pg 2; par 21, pg 13 R). Tibbals was enjoined from getting execution in subsequent litigation, cases 1667 and 1676 of the Supreme Court followed, and 4623 of the District court.

Sec 3-907 Wyo, and the universally established law of land, declared and established by numerous decisions of this court, the federal courts; and state supreme courts including Wyo. Supreme Court, Bank of Chadron v Anderson, 6 Wyo 518, barred and excluded any subsequent third party--here the subsequent Midwest Mines Corp., as subsequent lessee, and its receivers, Graham and Hime--from acquiring any adverse interest or right in the properties as against plaintiff Tibbals, which same law enures to Petitioner, grantee of Tibbals.

The law applicable thereto in said statute, and the universal law of the land, is set out in par 4-5 and briefly stated as follows: That from date of service of case 4182, which was March 17, 1928, the properties were in the prior, sole, exclusive jurisdiction, custody and control of the court in case 4182; that this exclusive jurisdiction of the court in that case continued on until the purposes of the suit were exhausted, by final judgment, execution, sale and deed, confirmation of sale and deed. And then on in aid of jurisdiction to protect the title of the purchaser at the sale in possession.

Further, that during all this time, no subsequent collateral court, or the same court in a subsequent collateral

case, has any power, jurisdiction, custody or control over the same properties, or power or jurisdiction to interfere with, obstruct, delay, modify, defeat or molest the process of the First Court -here 4182- And that any attempt to do so is absolutely VOID.

In par. I + II, pgs 28-29-30 of the petition for Certiorari, the many decisions of this and other courts, including Wyoming-Bank of Chadron v Anderson 6 Wyo 518, are set up, and in these decisions, this court and the other courts state the reason why this is the law, and why it must be law, namely:

IT IS NECESSARY THAT COURTS MAY ACCOMPLISH THE OBJECTS FOR WHICH COURTS ARE CREATED:

IT IS NECESSARY TO GIVE THEIR JUDGMENTS VERILTY, FORCE AND EFFECT;

NECESSARY TO PUT AN END TO LITIGATION, TO PROTECT LITIGANTS, PROTECT TITLES:

NECESSARY TO MAINTAIN THE CONFIDENCE AND RESPECT OF THE PEOPLE IN THEIR COURTS:

NECESSARY FOR ORDERLY PROCEDURE AND TO AVOID CONFLICTS AND CONFUSION IN COURTS:

NECESSARY FOR THE GENERAL PEACE AND WELFARE OF SOCIETY:

It is not necessary that Petitioner argue to this court the universally established law of this and every other court to the effect that the final judgment of a court of competent

jurisdiction is final, absolute, res judicata and CONCLUSIVE between the parties, privies, and those claiming under such parties or privies. In Voorhees v Bank 10 Peters 450, set up par I, pg 28 of petition for Certiorari, this court states the law that final judgments of such courts, are res judicata and CONCLUSIVE and neither the judgments, nor property acquired at such sales, can be subjected to attack or relitigation in any subsequent collateral case between the parties, or privies, or those claiming thereunder, declaring that if that were not the law, litigation would never end, and the judgments of the Supreme Court would for the same reasons be subject to attack and vacation by SOME JUSTICE OF THE PEACE.

It is then the universally established rule that the final judgment sale, deed and confirmation of sale and deed to Tibbals Oct 15, 1932, in the ancillary case 4623, and the final judgment in case 4182, entered under the mandate of the Supreme Court in 40 Wyo 524 are all final, absolute, res judicata and CONCLUSIVE in favor of Tibbals, and Petitioner his grantee, and holder of the contingent interest aforesaid, as against the adverse parties, and privies--the Midwest Mines Corp. was privy,-and Graham and Hime, alleged receivers of the Midwest Mines Corp. and against all defendants herein who claim unler the Midwest Mines Corp., privy aforesaid.

And likewise, it follows that the subsequent court, 4561, and 50 Wyo 277 had no jurisdiction whatsoever over the same properties, and no power or jurisdiction to relitigate the final judgment sale, deed, and confirmation of deed to Tibbals, grantee or of petitioner.

QUESTION LITIGATED IN 4623; The Midwest Mines Corp., the subsequent lessee, was privy of defendants in case 4182-40 Wyo 524, case 4623. It was actual litigating party, supplied costs, injunction bonds, attorney fees. It was precluded by the judgment, sale and deed to Tibbals in 4623. Its receiver, Graham and Hime, were also precluded by the same judgment. He was not a necessary party to case 4623. He had no rights therein to protect.

Vener v Denver Union Water Works, 90 Pac.

On application of Graham, receiver, the court in case 4561, the receivership case, and in case 4623 made an order directing him to intervene and set up his claims. He did so. His rights were litigated. (See par 15-6-7-pgs 10, 11 , Complaint. The court rightfully adjudged he had no claims or interest whatsoever. That adjudication is final, conclusive. The court expressly excluded the receiver from any claim of surplus over the Tibbals trust, in this express adjudication in the final judgment. After providing for sale and payment of the First Trust, the court decreed; "--and the remainder, if any there be, shall be paid to the Clerk of this Court for plaintiff (FGMC), or for such distribution between the plaintiff and the estate of John C. Spry,deceased, as the Court may afterwards determine in case of presentation of adverse claims."

The Wyoming Supreme Court in the subsequent collateral case, 50 Wyo 277 quoted this express portion of the final judgment, but cut out the heart by omitting these words-- "and the estate of John C. Spry, deceased" and made the judgment to apply to claims of the receiver. This trick of

the court is an exhibition of the bias, prejudice, hatred, ill will and malice that actuated the court in the entire case, 50 Wyo 277.

What did the receiver do next? He filed in case 4623 his written ratification of the judgment and asked the court to make the sale to Tibbals and confirm the same without further notice. (See par 19, pg 11 R-)

ANOTHER QUESTION LITIGATED IN 4623 denominated FRAUD. The court in 50 Wyo 277, by judicial assertion created two false, untrue and basely premises for jurisdiction, namely; 1 There was fraud against the receiver rendering the sale in 4623 VOID 2 The properties were in custody of law in the receivership, rendering the sale VOID. The properties were in custody of law in the receivership, rendering the sale VOID. The matters which the court called FRAUD had been expressly litigated in 4623. Briefly stated, to escape criticism of PROLIX, Tibbals was advertising the sale under the final judgment in 4623 for Oct 15, 1932, the date fixed by the court. The receiver had been expressly adjudged -No Claims- He was down and out. The defendant owners had tried during all the extended litigation to find a buyer, but failed. Tibbals would be compelled to bid in the properties for his judgment. That meant the owners would get nothing. The sale was by strict foreclosure without right of redemption after sale. The receiver and defendants contacted a mining man named Quinn, who agreed to take an option to purchase IF THE MINE STOOD THE TEST. He could not make the test before time fixed for sale. They all asked Tibbals to grant them a favor, extend the time 30 days. Three options were drawn up. The Quinn;Tibbals option gave

Quinn a 30 day extension to purchase the Tibbals judgment, if exercised before sale, or the properties acquired at the sale, if exercised within the 30 day extension. Consideration was payment in full of Tibbals judgment, plus $5,000. stipulated by the parties to be payment of damages sustained by Tibbals in the injunctions restraining execution. Tibbals made these requirements: Nothing in the option should interfere with his sale, or his title at the sale. The option must be reduced to writing, signed by the adverse parties, acknowledged before a Notary, submitted to and approved by the court making the sale by his written order in the case, and then a further ratification of the court's order and the option agreement. The attorneys of the different parties working together, all in the best of faith, for their mutual good, formulated the option, submitted it to the court, and by his written order, the court approved the order. The other parties all filed their written ratification, asked the court to make the sale to Tibbals in accordance therewith. In drawing up the option a question arose as to how to meet the contingency of some third party appearing at the sale and bidding $1. or so over the Tibbals judgment and thereby deprive the owners and receiver of substantial sums they would realize thru the option. In the Quinn-Graham option, if the mine stood the test, Quinn would pay Graham $34,500. which was purely a gift. The receiver had been adjudged-No Claims-. He had no interest in the properties, but he could cause litigation as a nuisance. By the Quinn-Defendant Owners option if the mine stood the test, and Quinn took up the Tibbals option, he would pay the owners the difference between the Tibbals option, some $21,000; plus the Graham option, $34,500. and

$125,000. which would give the owners the substantial sum of around $60,000, It would have been an abuse of discretion had the court not approved the option, for it was his duty to aid the defendant owners to realize the best possible sum out of the court sale. Tibbals made and placed in escrow his deed. Quinn made the test. The mine failed. Tibbals gave two different extensions of time, 30 more days each, and urged the defendants, and also the receiver to take up his option. For his kindness to the defendants and receiver, he is branded a FRAUD. The attorney for the receiver appeared at the sale, and to make it a success, put in a bid for the reason that there should be two bidders at the sale. The branding of Tibbals as a Fraud was the most judicially absurd, oppressive and tyranical act any court could perpetrate. Under the option, Tibbals was to bid such sum as the other parties directed to prevent a disinterested third party from depriving them of their benefits under their separate options. If some third party did appear, Tibbals would keep on bidding under their directions, until told to stop. It could have been possible had some third party really wanted the property for defendants to have the bid run up to such sum as would give them a fair surplus over the Tibbals judgment, which the clause of the judgment above quoted, would be paid into court for their benefit.

At any rate, to say that Tibbals could commit a fraud on Graham or defendants, by acting under their directions, and bidding as they directed, would be to say that Graham could commit a fraud on himself, by having Tibbals bid as he directed.

There was no semblance in fact for the charge of fraud; there was no semblance in law for the charge of fraud. The whole matter had been submitted to the court for his approval or disapproval as his judicial discretion directed. This court has by the leading decision of fraud in judicial sales, settled the law in Throckmorton v U S 98 U S 86, repeatedly cited and quoted by this and other courts, making judicially absurd and ridiculous the Wyoming Supreme Court's decision in 50 Wyo 277. The law is settled, that a judicial sale is not subject to attack for fraud, unless it be EXTRINSIC fraud as distinguished from INTRINSIC fraud. Extrinsic fraud is defined as something that was not before the court, or could not be reasonable dilligence have been placed before the court. It must be something that was not passed on by the court. It must be something that the successful party did to prevent the unsuccessful party from presenting his case and having a day in court, such as inducing him not to appear by reason that the case will not be called up for trial; or that his attorney by collusion sold him out. The law is that without positive evidence of EXTRINSIC fraud there is NO JURISDICTION in the court to relitigate or attack a sale.

It follows that the Court of Appeals, in holding that the court in 50 Wyo 277 WAS A COURT OF COMPETENT JURISDICTION to relitigate the final conclusive judgment in case 4623 committed such error as has caused Petitioner to be deprived of his property without due process of law, and denied equal justice under law. Petitioner is denied a day in court to establish his complaint by evidence.

SECOND FALSE PREMISE JUDICIALLY ASSERTED IN CASE 50 Wyo 277, namely the sale in 4623 is VOID because the properties were in custody of law in receivership in case 4561- is so judicially absurd as to be unworthy of consideration by this or any court.

Petitioner's right to have litigation end, and to be free from litigation with a stranger in title, who is a wilfull, malicious trespasser is violated under 42 U S C A when he is compelled to relitigate this question herein.

What kind of a receiver and whose receiver was Graham and Hime? The Supreme Cou f in 50 Wyo 277 says; The Midwest Mines Corp became insolvent, and Graham was appointed its receiver so the creditors of the Midwest lessee could be protected.

Point 1 - The Midwest Mines Corp., as a subsequent lessee, was privy of Spry Executors and Federal Gold Mining Co., defendants in case 4182, 40 Wyo 524-case 4623. As such subsequent lessee it was barred and excluded by Sec 3-907 Wyo State, and by the universally established law of the entire land, and of Wyoming, Bank of Chadron v Anderson, 6 Wyo 518, hereinbefore cited, from any adverse claim against Tibbals, grantor of Petitioner. Hackett v Linch (Wyo) 103 Pac 2nd 164; Baker v Leavitt 153 Okla 1099; Mass Bonding Co v Knox 220 N C 725, 18 SE 2nd 436.

Point 2 - Such receiver stands in the shoes of Midwest Mines Corp., and has no rights superior to the insolvent. Barber v Reina Nash Co. (Wyo) 260 Pac 2nd 934; White v Ewing 159 U S 36; Am Jur Vol 45, pg 129, sec 156; Re, K T Sandwich

Shop 34 Fed 2nd 962; Union Nat Bk v Bk of K C 136 U S 223, Citation could go on without limit.

Point 3 - If the court in case 4561, the subsequent collateral case, attempted to interfere with the prior, sole exclusive jurisdiction, custody and control of the properties in the prior cases, 4182-4623, 40 Wyo 524, it acted without jurisdiction, and its judgment is VOID.

Point 4 - The Prior Court, 4623, with complete jurisdiction, expressly adjudged the receiver had no claims whatsoever. The receiver ratified, asked the court to make sale, deed and confirm sale to Tibbals, grantor of Petitioner. That adjudication is conclusive, and was conclusive on the court in 50 Wyo 524. Any attempt to relitigate is without jurisdiction, and VOID. (Complaint par 19, pg 11 R)

Point 5 - The court in 4561 did not attempt to appoint Graham receiver of the fee simple title to the properties. That was in the prior sole exclusive jurisdiction of the court in 4182. It confined the RES of the receivership to the property the insolvent owned, its mining equipment, and at best a leasehold which lease expired Oct 19, 1932. (Complaint par 20, pg 12 R)

Point 6 - On application of Graham, receiver, TO CLOSE THE RECEIVERSHIP, the court in case 4561 sold all the RES, the mining equipment, and the unexpired 6 weeks term of the lease, IN FULL SATISFACTION OF THE CLAIM OF PLAINTIFF MARRIN, AND ALL OTHER CREDITORS OF THE MIDWEST CORP, AND ALL RECEIVER SHIP COSTS, EXPENSES, AND DEMANDS WHATSOEVER. (Complaint - par 19-20-21 pg 12-13 R) This in fact closed the receivership.

There were no longer any creditors. Simmons v Parrent (Wyo) 256 Pac 2nd 105. Judgment for plaintiff ends a receivership—Very v Watkins 64 US 469, 16 Led 522. The receiver sold all the RES in full satisfaction of plaintiff's claim, and all other creditor claims, costs and expenses. (Complaint par 19-20 pg 12 R)

A receiver of a tenant has no more rights than the tenant, Vincent v Natural Drug Co., 3 Fed 2nd 504. Any tenant or lessee is required to turn back the properties when the lease expires. This lease expired Oct. 10, 1932.

A receiver has a reasonable time to adopt or reject the lease. Humphrey v Quincy Ry 145 US 82, 36 Led 632; Blossom v Milwaukee 1 Wall 635, 17 Led 673; Graham refused to adopt. He filed in court his report that the lease was so far in default he could not comply with its terms. The court by order approved his report. That eliminated the lease from the receivership.

A receivership cannot be unreasonably prolonged. If the parties do not provide for discharge the court will. Mitchel v Lay 60 Fed 2nd 941; Platt v Philadelphia 65 Fed 872

What is such receiver as Graham pretended to be? He was a mere custodian, pendente lite, to hold to see if plaintiff was entitled to claims. Here the plaintiff was paid in full by sale of the RES, he had no further claim to anything. Such receiver does not acquire any title or right of possession to the property. Re, Greling Realty Co. 74 Fed 2nd 734; Grant v Phoenix Mutual Life, 106 US 429; 45 Am Jur, pg 125, sec 151; Re, Burgh 7 Fed Sup 184; US Mortg Co. v Mo K & T Ry 269 Fed 497; Union Nat Bk v Bank of K C

136 US 346. He does not represent the justiciable interests, he is a mere custodian, Whitnet v Hardman 54 Pac 2nd 1065; Union Nat Bk v Bk KC 136 US 346l US Mtg Co v K & T Ry 269 Fed 497.

He had not title or right of possession. While some courts inadvertently refer to it as possession, it is only custody. Crowley v Ickes 83 Fed 2nd 573; Penn Steel Co v N T City 198 Fed 721; Taylor v Sternberg 293 US 475, 79 Led 599; Re, Southern Metal Products Co 26 Fed Sup 666.

The receiver could have no rights superior to plaintiff. A fountain cannot rise higher than its source. This plaintiff was paid in full by sale of the RES Whiterspoon v Choctow 56 Fed 2nd 984. Further title and possession were judicially quieted against plaintiff, in the following judgment in case 5090, of the District Court of Fremont County, entitled, Barney N. Tibbals and John J. Spriggs, plaintiffs vs J. H. Marrin, defendant. (Marrin was plaintiff in 4561)

> "It is considered, ordered, adjudged and decreed by the court that defendant J. J. Marrin has no legal or valid claim whatsoever in and to any of the properties described in the petition; and that defendant be and he is hereby debarred from forever hereafter asserting any claim of right, title, interest or demand whatsoever in and to any of the properties described in the petition of plaintiffs." (It was the same properties deed to Tibbals by sale and deed in 4624)

The least expired by its own terms Oct. 10, 1932, five days before the sale of Oct. 15, 1932 in 4623. The properties, the fee simple title of the owners, Spry and Federal

Gold Mining Company never were, and never could be in receivership in 4561. The court in 4561 never did appoint Graham receiver of the fee simple title of the owners. It confined its orders to the property of the Midwest lessee, namely its personal property, the mining equipment and the unexpired term of the lease, the property it owned and which could be sold to pay its debts. In selling the RES (Complaint par 19, pg 12) the court kept within the law that was restrictions on the lessee and the court, namely Sec 3-907, and the universally established law of the land on prior jurisdiction in the court heretofore set up, and established in the decisions of this and other courts. (See par I-II of Petition for Certiorari, pg 28-29-30) The taking of property without due process, and denial of equal justice began in the subsequent collateral case, 50 Wyo 277, when the Supreme Court judges took offense and penalized Petitioner for becoming a candidate for Supreme Court Justice. It was in this last case that the Supreme Court by judicial assertion sought to create jurisdiction to relitigate and overturn the final CONCLUSIVE judgment, sale, deed, and confirmation of sale to Tibbals in 4623, by falsely asserting that the properties on Oct. 15, 1932, were in the custody of the court, in receivership, in 4561. That false judicial assertion is so absurd as to shock the conscience of this court. That judgment was actuated by the bias, prejudice, hatred, ill will and malice of the court therein.

Ex Parte Owen 258 Pac 1 c 779–"Public officers hate ooponents. ALL HISTORY PROVES that public officers in any government, when they are engaged in a struggle to retain their places, BECOME BITTER AND REVENGEFUL, AND HATE THOSE WHO OPPOSE THEM–EVEN IN

A MOST LEGITIMATE WAY–WITH A RANCOR WHICH THEY NEVER EXHIBIT TOWARD CRIME."

It is likewise true that any person, litigant or otherwise, who takes issue against the claim of JUDICIAL IMMUNITY OF JUDGES FROM SUIT, incurs the ill will of too many distinguished judges and to his great disadvantage. The Constitution of Wyoming Sec 8 Art (See page 46, Petition for Certiorari) guarantees every person that Courts shall be open to all, and justice shall be administered without sale, denial or delay. That excludes bias and prejudice. If a court renders an opinion with a member disqualified, the decision is of no force–IS VOID, the same as no judgment and as if never rendered. Knouse v Nimocks 66 Pac 2nd 438.

(See Complaint par 2 pg 3 R; and par 35, pg 17 R; and par 40, pg 20 R; and par 35, pg 17 R)

It must be apparent that the Supreme Court never intended that the law meted out to Petitioner in 50 Wyo 277 should ever be applied equally to other citizens under like circumstances. It would put every bank out of business. No property owner would dare rent property. The State of Wyoming would lose all its valuable oil, mineral and agricultural lands.

Take the banker, he brings suit to foreclose a First Mortgage. The Supreme Court establishes his First Mortgage, decrees foreclosure. Under the mandate, the lower court forecloses, sells and deeds the land to the bank. The First Mortgage merges in the judgment, is satisfied, and the land bought in represents and takes place of the

First Mortgage. Suppose a like case, while the bank is up in the Supreme Court, the mortgagor gives a lease on the mortgaged lands. The lessee goes broke, a receiver is appointed. The lands are free from any subsequent adverse interest after service of foreclosure suit filed and served by force of statute, Sec 3-907, and from the universally established law, including the law of Wyoming, Bank of Chadron v Anderson, 6 Wyo 518. The final judgment and deed are free from subsequent litigation. The RECEIVER SELLS ALL THE RES, in full satisfaction of the claim of plaintiff creditor, and all other creditors. Six months after the foreclosure sale and deed to the banker, that receiver, after the lease itself has expired, goes back and takes possession of the banker's land. The Supreme Courts hold him in possession 25 years, during which time the receiver pays no rent, but all the while he depletes the property, and then such trespassers claim title, and the court sustains his claim of title, directs that trespassing receiver issue a court deed, which he does, and the banker is deprived of his land. No bank could continue in business.

Take the property owner, say the State of Wyoming itself. It owns and leases valuable oil, mineral and agricultural lands. It gives an oil or mining company a four year lease. The lessee goes broke, a receiver is appointed. Under the law, the receiver would either adopt, or reject the lease. If he adopted, he would pay the rents, comply with the lease, and at end of the term, turn the property back to the State. The receiver sells the mining machinery and equipment IN FULL SATISFACTION OF THE CLAIM OF PLAINTIFF CREDITOR, AND ALL OTHER CREDITORS and all costs. Then 6 months after the lease

has expired, that ALLEGED RECEIVER, he is in fact no receiver, goes back, takes possession of the lands of the State which were included in the lease, and over the protests of the State, the Supreme Court holds that trespasser in possession 25 years, while he pays no rent, all the while depleting the property, then he claims title, and the Supreme Court directs the trespasser to sell the valuable lands of the State. Such law is judicially absurd.

Another absurd declaration of law the Supreme Court declared for Petitioner and Tibbals and which could not be applied to other citizens equally is this. The Supreme Court in 59 Wyo 277, declared that at the judicial sale by the receiver in case 4561 (See Complaint, par 19-20, pg 12-13), wherein the property sold was specifically described as the mining equipment, and the six weeks unexpired term of the lease, the creditors bought in this RES, taking title in the name of Graham, as Trustee for Creditors. The effect of the Court's decision is that if you purchase a lease, you get fee simple title. Then the court holds this purchaser, Graham, Trustee for Creditors, who bought the unexpired six weeks term of the lease in possession 25 years after the lease expired, during which time this trespasser depleted the property, pays no rent, claims title, and sells the property, and the Court judicially ap proves.

QUESTION: If at this receiver's sale, Graham, Trustee, purchased the six weeks unexpired term of the lease, what did he purchase? Answer: He purchased the six weeks unexpired term of the lease. What were the obligations of lessee itself, and what were the obligations of purchaser

Graham, Trustee for creditors. Answer: Pay rent during the coming 6 weeks, and when the lease expired Oct 10, 1932, turn the property back to lessors, Spry estate and Federal Gold Mining Company. But what did the Supreme Court decide? It held the purchaser of the unexpired term of the lease in possession 25 years after the lease expired, confirmed the trespasser's claim of title, directed the trespasser to sell the fee simple title to another co-trespasser. If that is to be EQUAL LAW AND JUSTICE, the monstrosity of the evil of such law is inconceivable. It would open up a new and most profitable judicial field to judicially licensed gangster racketeering ever temptingly offered the underworld. Come to Wyoming, attend a receiver's sale, buy a 6 weeks unexpired term of a lease, on some million dollars premises, stay in possession 25 years after the lease expires, deplete the property, claim ownership, and the Wyoming Supreme Court will give you fee simple title. If the property owners complain to the federal courts that their property is taken without due process of law, and they are denied equal justice under law, the Court of Appeals will say -NO CLAIM- and on Petition for Certiorari, the Supreme Court of the United States will say -NO COMMENT, Cert. dn.

When defendant Judge Lewis made his order in case 4561, in 1956, directing alleged receiver Hime to sell Petitioner's property to Pioneer Carissa Gold Mines, Petitioner asked the Supreme Court, defendant Judge Blume, presiding, to issue Prohibition and prevent the abuse and misuse of state judicial power by defendant Judge Lewis, and to prohibit him from holding trespassers in further possession of his properties and from selling same to Pioneer Carissa Gold

Mines, a co-trespassing defendant, setting up such as the taking of property without due process of law, and a denial of equal justice under law, and that the court was without jurisdiction over the properties or over petitioner, and that the order to sell was VOID. (See Complaint, par 36-7-8-9-40-41-pg 17 to 22 R). Petitioner shows the court that it was the duty of the Supreme Court, defendant Blume presiding, to issue probition in the exercise of its supervisory power and constitutional authority and protect Petitioner from said unlawful taking of his property and denial of equal Justice. At the hearing among authorities from this and other courts to sustain Prohibition, Petitioner read Mark 3-27. That said Supreme Court denied Prohibition and in his biased, prejudiced, hatred, and malice, the Court, defendant Blume presiding, sought to intimidate Petitioner, and bring about his surrender to judicial oppression and tyranny by this threat: "Any further attempt to try to claim ownership of the foregoing property is a grave abuse of judicial process." (See Complaint, par 40 pg 20 R) Petitioner well understood the bias prejudice, enmity, hatred and ill will Judge Blume nourished in his heart for Petitioner and believing a fair hearing and trial before Judge Blume was impossible, Petitioner courteously asked Judge Blume to call in some other Justice but the Judge refused and sat and adjudged the sacred constitutional rights of Petitioner while actuated by said bias, prejudice, hatred, ill will and malice, and directed Judge Lewis to proceed in case 4561 and sell the property of Petitioner to Pioneer Carissa Gold Mines. (See Complaint par 35 p g 17; and par 41, pg 21 R)

Petitioner well understood from past experience with defendant Blume and the Supreme Court and believed that if Petitioner sought further redress for the wrongs against him and his property, Judge Blume, and the court over which he was presiding, would persecute him with the drastic weapon of contempt or other punishment.

Petitioner asserts his constitutional right as an American citizen to resist the further withholding of his property without due process of law, and the same constitutional right to continue to seek redress in the courts of his state for the denial of his constitutional rights to own, possess, and enjoy his property. He asserts his American right to interpret the Divine Assurance of the Master in Mark 3-27: "No man can enter a strong man's house and spoil his goods, except he will first bind the strong man; then he will spoil his goods" as being condemnation of trespass inflicted on Petitioner and which he should continue to resist until he is bound up beyond resistance. Further Petitioner remembers the electrifying American retort by the American officer, who during the Battle of the Bulge, when being cut off from all support from the main body of his army, he found himself and his few comrades surrounded, and confronted with the warning threatening command of the German General to this effect: "You are surrounded and cut off from assistance. Our machine guns are leveled on you. You are helpless to resist. Surrender to Hitler, and save your lives, or else-" To this command of surrender to Hitler, his oppression and tyranny, the American soldier gave this American reply: "What, bow and surrender to Hitler and tyranny--NUTS TO YOU!"

This threat from the Supreme Court of Wyoming, and defendant Judge Blume, warning Petitioner that should he stand on his constitutional right to seek redress against further judicial oppression, and further denial of equal justice is a threat of reprisal against the exercise of the constitutional right to further protest the taking of his property without due process of law, and violated 42 U S C A, 1983-5-6-8. Petitioner, along with his co-litigant Tibbals in 50 Wyo 277 and his co-litigant Anna Tibbals have been oppressed thru a taking of their property without due process of law, and denial of equal justice to an intolerable degree, sufficient to arouse the people to a justifiable wrathful retaliation against their oppressors. The American people were horrified at the brutal oppression, persecution and tyranny of dictator Hitler directed against the unfortunate Jews in Germany. This unrestrained tyrant seized their homes and confiscated their property and to their cry for mercy and justice, they received the fiendish answer, "YOU SWINE-away to the concentration camp, torture and death. "A judicial tyrant is the most dangerous and most oppressive of all for he wields the judicial power and authority entrusted to him to prevent oppression and injustice.

Petitioner is not required to litigate with this alleged receiver, a stranger in title. To litigate all strangers, litigation could never end. May v Preston, (Wyo) 16 Pac 2nd 35. Nor is he required to litigate the many other judicial absurdities embodied in 50 Wyo 277, and cases subsequent to the final sale and deed in case 4623. The Court of Appeals, in referring to these subsequent litigations as "courts of competent jurisdiction" and "the rights of Petitioner were

determined against" forces on Petitioner PROLIX briefs to point out such absurdities in defense. The complaint alleges plaintiff Marrin in case 4561 was paid in full by receiver's sale. He died in 1943, and there was no revivor, and no plaintiff since that date, none when Judge Lewis sold Petitioners property. (Complaint par 13 pg 9) And likewise the corporate franchise of Midwest was forfeited in 1933. There never was a judgment establishing a debt for Marrin in 4561; nor judgment establishing a lien, or decreeing foreclose, with right of redemption, as required by Wyo lien statutes. (Complaint par 13 pg 9 R) Wyoming statutes provide AN EXCLUSIVE procedure for attacking a judgment after term. The Court 50 Wyo 277 ignored this exclusive procedure. The defendants in case 4182-4623 were not made parties in 50 Wyo 277, yet their final judgment is attacked without notice.

What did the Court of Appeals have for a basis in saying 50 Wyo 277 was a court of competent jurisdiction? What is jurisdiction? It cannot be created by judicial assertion. It cannot be created by consent of the parties. It cannot be waived by the parties. It can only exist when conferred by the constitution and laws creating the Court. Mandfield v Swam 111 U S 379, 28 Led 462.

The District Court of Fremont County Wyo is the same as a District Court in Colorado; Hill v Benevolent League of Colorado 295 Pac 2nd 231--"The jurisdiction of the District Court is fixed by the Constitution, which gives it original jurisdiction in all cases of law and equity, and such appellate jurisdiction as may be conferred by law (from J P

Courts) The appellate jurisdiction does not extend to a review of the decisions and judgments of courts of concurrent jurisdiction or a judge of that court."

Harris v Hudson 250 Pac 533 says such is absurd, hopeless, intolerable, disorder and destroys the law itself. So to permit the District Court of Wyoming, in the subsequent collateral case, 4871, which is 50 Wyo 277, to relitigate the final judgment in the prior case 4623, 40 Wyo 524, is to permit the subsequent judge to accuse the prior judge of incompetency, and brand him as guilty of FRAUD, for he approved the option, the manner of bidding, made the sale and confirmed it. If there was any fraud, it is the court's fraud. During all these years of oppressive litigation, Petitioner always denied equal justice, has been driven from court to court, hoping to find a Temple of Justice wherein he can hear the voice of an American judge decreeing equal justice under law, only to find the court doors locked, a sign up- "no day in court-no comment" while thru the key hole is seen the wilful malicious trespasser enjoying the welcoming carresses of the court and shedding crocodile tears of joy on the judicial decrees sustaining him in his trespasses.

It necessarily follows, that under constitutional and established law, the court in 50 Wyo 277 acted without Jurisdiction, in attempting to relitigate the final res judicata, CONCLUSIVE judgment, sale and deed to Tibbals in case 4623, under mandate of 40 Wyo 524. All subsequent litigations construed to uphold the VOID judgment in 50 Wyo 277, are likewise void. A judgment contrary to an express statute, 3-907 is VOID, without jurisdiction State Ex Rel v District Court (Wyo) Blume Judge, 33 Wyo 281, 238 Pac 545.

A VOID judgment is not a judgment, it is NO JUDGMENT,- entitled to NO RESPECT. All proceedings thereunder are VOID. IT cannot CREATE OR IMPAIR RIGHTS. No one can JUSTIFY OR DEFEND THEREUNDER.

Olson v Leith 33 Wyo 281, 257 Pac 2nd 342
Wurnicke v Leith 61 Wyo 191-157 Pac 2nd 274
Bank of Commerce v Williams 52 Wyo 1,69 Pac 2nd 525.

No Court can take the property of one man and give it to another. It violates the dur process clause of the constitution.

Fayweather v Richie 195 U S 300
Osborne v Michelson 13 Wall 654, 20 Led 689

The affirmance of a VOID judgment by the Supreme Court adds nothing to it. The Supreme Court cannot breathe life into a corpse.

Latimer v Vanderlice 178 Okla 501, 62 Pac 2nd 1197
Whitaker v Dillingham 152 Pac 2nd 371
King v Superior Court 12 Cal App, 56 Pac 2nd 268
Hine v Morse 218 U S 493

The Court of Appeals refers to different VOID judgments, attempting to relitigate the final conclusive judgments, and sustaining the wilfull, malicious trespasser in taking Petitioner's property without due process of law, and referring to them as COURTS OF COMPETENT JURISDICTION. The answer thereto is found in the very first multiplication table taught to the kindergarten class:

1 X 0 - 0	One VOID judgment is NO JUDGMENT
2 X 0 - 0	Two time a VOID judgment is NO JUDG - MENT
3 X 0 - 0	Three times a VOID JUDGMENT is NO JUDGMENT

And so on. Repeated affirmance of a VOID judgment is still NO JUDGMENT.

Snare & Trieste v Freidman 188 Fed 300: "It is beneath the dignity of Federal Courts and a reproach on jurisprudence for a Federal Court to decide a case according to the decisions of a State Court when convinced those state decisions are wrong in principle."

A single decision of a State Court which departs from the whole course of the decisions of that State will not be followed.

Hardin v Jordan 140 U S 371, 35 Led 428
Gibson v Lyon 115 U S 439, 29 Led 440

It follows: It is established beyond question or dispute, and by proper Complaint, and allegations therein, all admitted and confessed:

1. Petitioner owned real property, acquired thru a perfectly complete, valid, legally deraigned title.

2. No defendant had any legal or valid claim or right, title, estate or right of possession thereto.

3. Petitioner was deprived of the right to own, possess and enjoy that property.

4. The court in case 4561, without any jurisdiction and by VOID order and judgment caused defendant Hime, claiming as receiver of Midwest Mines Co., to sell and deed Petitioner's property to defendant Pioneer Carissa Gold Mines, in 1956.

5. That this was done in violation of express Wyo. statutes, and contrary to the established law of Wyoming, as applied to other citizens under like condition. And is a taking of property without due process of law, and is a denial of equal justice as accorded other citizens under like conditions.

QUESTION PRESENTED: Does this Court have power to divide the citizens into different classes, one class protected and accorded equal rights under the Constitution and laws of the United States, while Petitioner is placed in an inferior class and not accorded the same equal rights and protection? And can Petitioner be denied a day in court to produce evidence to support his Complaint herein?

There are different defendants. One defendant, Pioneer Carissa Gold Mines has taken and now holds Petitioner's property under Void judicial orders and judgment.

The defendant judges, without a pleading setting up immunity, have been adjudged immunity by the court SUA SPONTE. Petitioner has been denied equal protection of the Federal Rules of Civil Procedure, in addition to being denied the equal protection of the final, res judicata, conclusive judgments of case 4182-4623, 40 Wyo 524, and has been discriminated against by being denied the equal protection of Sec 3-907 and other Wyoming statutes, and the established law of the land, and final judgments of the many decisions of the Wyoming Supreme Court as declared for other citizens under like conditions. Rehearing should be granted and the Writ of Certiorari issued.

ARGUMENT

Petitioner is the victim of PROLIX continued and yet continuing neverending oppressive litigation, such as the court in 4623 (See Complaint par 12,pg 8 R) forever enjoined by final injunction in its final conclusive judgment therein. It is inconceivable that the Supreme Court of Wyoming in 50 Wyo 524, and in the Prohibition case, (See Complaint par. 39 et seq, pg. 19 et seq R) would itself unlawfully relitigate annul, and attack its own final, res judicata, CONCLUSIVE judgment in 40 Wyo 524, or permit any other subsequent collateral attack on the final decree, and title adjudged and decreed therein. It is inconceivable that the Court of Appeals could disregard the universally established law of the Supreme Court of the United States, and Federal Courts, including the same Court of Appeals, (D U A Uranium Co v U S 149 Fed Sup 667) and State Supreme Court, including Wyoming (Bank of Chadron v Anderson, 6 Wyo 518)andexpress Wyoming Statutes, -3-907- and all established law as decreed by thosd courts for other citizens under like conditions, and deny Petitioner the equal protection of the final CONCLUSIVE judgment of the court in 4623, under mandate of the Supreme Court of Wyoming 40 Wyo 524, and deprive Petitioner of his property legally deraigned thereunder, permit the taking of the property without due process of law, and deny Petitioner equal justic dunder law, and deny Petitioner a day in court to establish such unconstitutional deprivation of federal Civil Rights. It is not open to argument that the Wyoming court in 50 Wyo 277 was without jurisdiction to relitigate the final CONCLUSIVE judgment,

and title acquired at the sale, deed, and confirmation of sale and deed in 4623. Every single point and question relied on by 50 Wyo 277 had been expressly presented to, and finally adjudged in 40 Wyo 524 as against this alleged receiver. The two premises created by judicial assertion in 50 Wyo 277 were false in fact and in law. The report of the decision of the Court of Appeals, 251 Federal 2nd 61, it is stated: "Civil Right-Syl 1-Where every act complained of was done in the prosecution and decision of matters in a court of competent jurisdiction, having jurisdiction of the subject matter, and parties, and power and authority to decide the issues presented, no cause of action arose under the Civil Rights Act against the adverse parties in the State court litigation or against the trial judge or judges of the appellate court on the theory that protracted state court litigation had the designed conspiratorial effect of depriving plaintiff of his adjudicated property rights without due process of law or equal protection of Law." Under all law, the statements of the Court of Appeals was error, which a day in court would reveal. In support of this it cited 50 Wyo 227 and its own decision in 172 Fed 2nd 449. In the last case the court denied a day in court, granted Summary judgment on the motion of defendants that 50 Wyo 277 had held the sale in 4623 void. The court of Appeals disregarded the subsequent title acquired by deed Feb 20,1950. The Complaint herein stated a perfect claim for taking property without due process and denying equal justice. It is reasonable to conclude that what the Court of Appeals had in mind was to write into law the defense of Judicial Immunity of judges from suit because they cited two of their

own cases declaring such immunity. It failed to take notice of and adjudge the points of error assigned for appeal, such as denial of equal protection of Federal Rules of Civil Procedure, and other points assigned as error. The Court passed over the assignment of error of denial of equal protection of law, and taking property without due process of law, or to say why it denied Petitioner the equal protection of the final CONCLUSIVE judgment, sale and deed, in 40 Wyo 524, a court of full, complete competent jurisdiction. It passed over the allegation that the defendants have abused and misused the state judicial power to purposely deny equal justice, and to discriminate against Petitioner. The Court of Appeals took no notice of the allegation that the judges had acted through bias, prejudice, malice, and ill will in their judgments. It was the duty of the Court of Appeals to grant a day in court, and hear evidence in support of the Complaint, and to examine the decisions of the Supreme Court of the United States, and Federal Courts establishing the universal law that the judgment sale and deed to Tibbals, grantor of Petitioner in 4623, 40 Wyo 524 was CONCLUSIVE of the title of Petitioner. Further to examine and follow the law as declared in such decisions declaring that the Court in the subsequent collateral case, 50 Wyo 277 was WITHOUT JURISDICTION to relitigate such prior CONCLUSIVE judgment. In the light of the Complaint setting up a wilfull, biased, prejudiced and malicious abuse and misuse of State power, further substantiated by allegations of supporting facts all admitted and confessed, showing a denial of constitutional rights under the 5th and 14th Amendments, contrary to express statutes and the universally established

law of the entire land. The decision of the Court of Appeals does violence to and mocks the inscription adorning the entrance doorway of the Court, "REASON IS THE SOUL OF THE LAW." Then declared law has no SOUL, because the SOUL is VOID OF REASON. The effect of the decision is to say that the court in 4561, acting without jurisdiction, and without notice to Petitioner, can take the property of Petitioner, turn it over to a wilfull and malicious trespasser, hold him in possession 25 years, while he depletes the property, and then give a court deed to the trespasser. And all this contrary to right, justice or REASON. And contrary to express statutes of Wyoming, and the universally established law of the entire land. And above all, contrary to the Constitution of the United States.

The action of the Court of Appeals in decreeing judicial immunity to defendant Judges herein, under a Complaint alleging that the judges acted wilfully, maliciously, and were actuated through bias, prejudice, hatred, enmity and ill will, with the designed evil intent to purposely discriminate against Petitioner, and thereby take away his property without due process of law, and thereby deny him the equal protection of law, all in violation of his Civil Rights secured by 42 USCA 1983-5-6-8, is a challenge to the continued existence of Constitutional government. One or the other must and will go. In citing two other decisions of the same court, both decreeing Judicial Immunity for Judges, it is made to appear that this Court of Appeals is proudly striving to take the foremost lead in decreeing Judicial Immunity to Judges. Too many other Federal Courts are in the contest for first place honors. First it was Judicial Immunity for superior judges; then

extended to justices of the peace; then to attorneys; then to litigants; then to sheriffs and marshalls; then to witnesses; next, friends, relatives and business associates may ask admission to the favored class. The fundamental American concept of Constitutional government is equality. The creation of a special privileged class, superior to and immune from the inhibitions and prohibitions of the constitution is abhorrent and treasonable under the American concept of constitutional government. It is inconceivable that the American people will stand by and tolerate the first step toward the desecration and wiping out of the sacred heritage of equal rights under constitutional law, purchased at the great cost of untold lives of American patriots. "Illegitimate and unconstitutional practices get their first footing by silent approaches and silent deviations from legal modes of procedure. It is the duty of the Courts to be watchful for the Constitutional rights of the citizens, and against the stealthy encroachments thereon. The duty of the Court is to MAINTAIN THE CONSTITUTION AS THE FUNDAMENTAL LAW OF THE LAND. THIS DUTY IS IMPERATIVE AND UNCEASING. " Marbury v Madison 1 Cranch 137, 2 Led 60, quoted in Kurtz v Pittsburg (Pa) 31 Atl 2nd 257.

The decree of Judicial Immunity partakes of the nature of a favor decreed by one judge for a brother judge, and for the class to which both judges belong, a decree for one and for all.

It is inconceivable that Federal Judges, selected for their superior judicial fitness, their high intelligence, their exemplary character, their unfaltering patriotism,

loyalty and devotion to the American concept of constitutional government, of equality of man--and before entering upon their duties, being firmly bound by oath to uphold, support and defend the constitution and laws of the United States--then by a further oath not to decide through bias or other improper motive--and now a third oath required of the last federal judge confirmed, that he will not judicially legislate, modify or extend by judicial decree any law of congress--it is inconceivable that any such Honorable Judge could find in his conscience a constitutional directive permitting him to decree Judicial immunity and thereby create a specially privileged class superior to the constitution and whose membership in that specially privileged class is a release from their oath bound duty to preserve the constitutional equality of man and not to ignore the Bill of Rights, nor desecrate, despoil and wipe out the very constitution they are oath-bound to support.

Petitioner comes to this Court with a Complaint, alleging factual matters, substantiated by the universally established law of this court as decreed for other citizens under like conditions. Further substantiated by the Bill of Rights of the Wyoming constitution, the express statutory law of that state, and the decisions of the Wyoming Supreme Court decreed for other citizens under like conditions disclosing a taking of his property without due process of law, and a denial of equal justice under law, perpetrated on him by 25 years of the most extreme, intolerable tyrannical oppression ever recorded in judicial history. He asks his constitutional right to a day in court to establish his complaint by evidence. His Complaint asking redress is

answered by this court-NO COMMENT-Cert Dn with no reasons given as to why equal right and justice under the Constitution of the United States is not given him. In the founding of the American government, when our forefathers came to breaking away from the mother country and setting up a new government, in formulating a Declaration of Independence, out of respect and courtesy for the people of the mother country, they set forth the reasons why they were doing so, declaring: "A decent respect for the opinions of others require that we declare the reason and causes-etc." The Supreme Court of the United States is great and mighty, but still it is the servant of the people, honored and entrusted with the duty to preserve constitutional government. Bound and required to protect the most humble citizen of the land in his American constitutional right to equality of right and justice. And when this Petitioner comes to this court with a proper, and adequate Complaint, demanding the constitutional right of equality, he is entitled to sufficient respect and courtesy to be informed of the reasons and causes why he denied a day in court.

In the course of human events, it is said that all good things must in turn come to an end and pass away. So it is with constitutional governmnet in America. It too is on its way out with black robed judges performing the functions of undertaker, and poker-faced lawyers, branded on their foreheads with that little three lettered word-WIN, the emblem of professional greatness, the mark of legal, honor acting as pallbearers. Petitioner, just a humble, judicially classed inferior person not entitled to claim equal justice under law, is subjected to having his property taken without

due process of law, in open violation of the Bill of rights of the Constitution of the United States, in clearest disregard of the Bill of Rights of the Wyoming Constitution, in admitted contravention of the statutory law of Wyoming, and contrary to the universally established law of the United States, and the State of Wyoming as decreed for all other citizens under like conditions, presents his proper Complaint against such unconstitutional, illegal, discriminatory wrongs to the Federal Courts, asking the redress provided by the Civil Rights Acts of Congress only to be met with a denial of a day in court and presented with a judgment labeled and endorsed:DECREE OF JUDICIAL IMMUNIT Y. The pledge of the flag: ONE NATION UNDER GOD WITH EQUAL LIBERTY AND JUSTICE FOR ALL, is sterilized of all sincerity and meaning. The American citizens are divided into two classes, one favored class entitled to claim constitution rights and protection; The other inferior class, not entitled to seek or ask constitutional protection and rights. Likewise, Judges are divided into two classes. One class required to respect their oath-bound duty and uphold, support and defend the constitution as written. The other class given superiority over the constitution, and allowed to decide thru bias, prejudice, malice and hatred, to abuse and misuse judicial power and authority secured from accountability therefor.

QUESTION: WHEN IS A CONSTITUTION NOT A CONSTITUTION? AND WHEN IS A JUDGE NOT A JUDGE? THAT IS IN LAW?

But as said of the old soldier who has served so well his country in time of need, he cannot die, he just fades

away to live on forever in th d memories and hearts of those he served so well. So it is with the constitution of the United States, it cannot die for it brought a new government set up in a new land, conceived in liberty, justice, and equality, and dedicated to the proposition that all men are created equal. The blessings it wrought--the birth of the greatest nation on earth, with its citizens enjoying the greatest blessings on earth, equal liberty and justice, it too cannot die it just fades away, to live on forever as a cherished memory of the most sacred heritage ever possessed by any people. Judicial Immunity replaces the constitutions. Inferior citizens are excluded from courts, and denied a day in court with equal rights or equal justice.

While the Court of Appeals was decreeing Judicial Immunity to Judges as against Petitioner, the Supreme Court of Colorado, in the same City wherein the Court of Appeals was sitting in Colorado-in Racing Comm v Brush Racing Assn 316 Pac 2nd 58 was denouncing any claim of Immunity, even by a sovereign state, in these strong terms; "Sovereign immunity may be a proper discussion for students of mythology BUT FINDS NO HAVEN IN THIS COURT. The rights of citizens remain the same whether they collide with the individual or the government, and the judicial tribunals were wisely established to correct such matters."

Petitioner prays that a rehearing be granted and that the writ of Certiorari issue as prayed for herein. And further Petitioner prays and moves for permission to file this petition for rehearing and have the same considered, any restricting rule of this court to the contrary notwithstanding,

concerning matters arising after denial of the petition for the writ.

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CERTIFICATE OF COUNSEL

I, John J. Spriggs, Sr., petitioner herein, do hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and that it is restricted to grounds specified in Rule 58 of the Rules of this Court

and sets forth substantial grounds not previously presented in the petition for certiorari.

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